

REMARKS

Claims 1-11, 13-17, 19-25, and 27-29 have been amended. Claim 18 has been canceled. Claims 1-17 and 19-35 are pending in this application.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 2, 3, 7-10, 13, 17, 21, 23, 25, 27, and 33-35 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is rejected on the grounds that the phrases “passage ao” and “where a fruit and/or vegetable sieved is obtained” are indefinite. In response, claim 2 has been amended to recite “a step where said fruits and/or vegetables are sieved.”

Claim 3 is rejected on the grounds that the phrase “vegetable sieved” is indefinite. In response, claim 3 has been amended to recite “the fruits and/or vegetables.”

Claims 7, 9, 10, 13, 17, 21, 23 and 27 are rejected on the grounds that the word “preferably” renders the claim indefinite. In response, claims 7, 9, 10, 13, 17, 21, 23, and 27 have been amended to delete the rejected language.

Claim 8 is rejected on the grounds that the phrase “wherein the centrifugation is carried out continuously” is indefinite. In response, claim 8 has been amended to recite “wherein said separating step is continuously performed while adding fruits and/or vegetables and removing serum and pulp.”

Claim 25 is rejected on the grounds that the number “10:0,5 e 1:50” is unclear. In response, claim 25 has been amended to recite “a ratio ranging between 1:0.5 and 1:50.”

Claims 33-35 are rejected on the grounds that “no amounts or degrees of concentration are found in claim 1, it is not seen that the process of claim 1 would have produced such products.”

Office Action at 3. This rejection is respectfully traversed. The degree of concentration in claim 1 is inherent in step d) adding the hypo-allergenic permeate to the acidified, hypo-allergenic pulp. Application at page 7, lines 2-8. For example, prior to adding permeate to the pulp, an optional treatment of concentrating the permeate to adjust the ratio of permeate to pulp in the fruit and/or vegetable derivative can be performed. Application at page 6, lines 10-15. This will have the effect of altering the concentration of claim 1.

Accordingly, Applicants respectfully request that the § 112 rejection of claims 2, 3, 7-10, 13, 17, 21, 23, 25, 27, and 33-35 be withdrawn.

Rejection Under 35 U.S.C. § 103(a)

Claims 1-5, 10-13, 28, 29, 32, and 33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent Publ. No. 0137671 ("Winterson") or European Patent Publ. No. 0174594 ("Lawhon") in view of U.S. Patent Publ. No. 2006/0159833 ("Radatti"). This rejection is respectfully traversed.

Radatti was filed on January 20, 2005. This date is after the priority date of the current application of February 26, 2004. MPEP 201.13(b). Thus, Radatti is not eligible as prior art, and the rejection should be withdrawn.

Even assuming, *arguendo*, that Radatti was eligible prior art, one of ordinary skill in the art would not be motivated to combine Winterson or Lawhon with Radatti in the manner described by the Examiner. The present application concerns a method for preparing hypoallergenic fruit and/or vegetable derivatives. Winterson discloses a process for the preparation of sterile juice concentrate with the express purpose of avoiding the flavor-affecting operations of the liquid portion. In particular, the key feature of the whole process lies in avoiding heat treatment to sterilize the liquid fraction. Winterson at 2, lines 25-27.

Winterson would not be used by a person of ordinary skill in the art as a foundation for the development of the claimed process, which has a completely different purpose. First, the

ultrafiltration in Winterson is carried out employing membranes having a large pore size. Winterson at 4, lines 3-5. Such an ultrafiltration process would allow allergens that the present application is designed to eliminate to escape through the membrane and into the product, resulting in a non-hypoallergenic product. Present Application at 6, lines 4-7.

Similarly, Lawhon relates to a process for the production of fruit juices deprived of microorganisms, while retaining their typical aroma and flavor. In order to retain aromas and flavors, Lawhon discloses an ultrafiltration process that utilizes a membrane of a suitable pore size to allow aroma and flavor molecules to pass through, while filtering out other undesirable components. Lawhon at 7, line 25 – at 8, line 4. Lawhon expressly states, “a UF [ultrafiltration] membrane is preferably chosen to have pore sizes as large as possible.” Lawhon at 8, lines 23-24. Thus, the solutions proposed by the above mentioned documents would teach against using either Winterson or Lawhon in combination with other art to prepare hypoallergenic fruit and/or vegetable derivatives.

Claim 1 recites “washing the pulp using an acidic solution to obtain an acidified, hypo-allergenic pulp.” The Examiner relies on Radatti to teach this limitation. Office Action at 4. Applicants respectfully submit that Radatti fails to disclose this limitation. To the contrary, Radatti merely discloses that “[t]he pulp is washed with water . . . to substantially remove any sugars and flavors present in the pulp.” Radatti, ¶ [0009]. Thus, the washing process of Radatti does not use an acidic solution and will not result in an acidified, hypo-allergenic pulp.

Claims 2-5, 10-13, 28, 29, 32, and 33 depend from claim 1 and are submitted to be allowable for the same reasons discussed above. Accordingly, Applicants respectfully request that the rejection of claim 1-5, 10-13, 28, 29, 32, and 33 be withdrawn.

Claims 6-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Winterson or Lawhon in view of Radatti, further in view of U.S. Publ. Patent App. No. 2005/0056161 (“Le Rouzic”) and U.S. Patent No. 5653673 (“Desai”). This rejection is respectfully traversed.

Claims 6-9 depend from claim 1 and are non-obvious over Winterson or Lawhon in view of Radatti based upon the distinctions set forth above. Le Rouzic and Desai do not cure the deficiencies of the proposed Winterson/Lawhon/Radatti combination discussed above. Accordingly, Applicants respectfully request that the rejection of claims 6-9 be withdrawn.

Claims 14-17 and 25-27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Winterson or Lawhon in view of Radatti, further in view of BG61472 ("Todorov"). This rejection is respectfully traversed.

Claims 14-17 and 25-27 depend from claim 1 and are patentable over Winterson or Lawhon in view of Radatti based upon the distinctions set forth above. Todorov does not cure the deficiencies of the proposed Winterson/Lawhon/Radatti combination discussed above. Accordingly, Applicants respectfully request that the rejection of claims 14-17 and 25-27 be withdrawn.

Claims 18-24, 30, 31, 34, and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Winterson or Lawhon in view of Radatti and Todorov, further in view of U.S. Patent No. 4413017 ("Loader") and U.S. Patent No. 2626706 ("Bishop"). The limitations of claim 18 have been incorporated into claim 1. Accordingly, this rejection is discussed with respect to claim 1. This rejection is respectfully traversed.

Claim 1 recites "washing the pulp using an acidic solution to obtain an acidified, hypo-allergenic pulp." The proposed combination of Winterson, Lawhon, Radatti, Todorov, Loader, and Bishop does not meet this limitation or otherwise render claim 1 obvious. Claim 1 is patentable over the proposed Winterson, Lawhon, Radatti, and Todorov combination as discussed above. Loader and Bishop fail to cure those deficiencies.

Loader discloses "the pulp is washed one or more times in cold water to recover soluble sugars." Loader, col. 4, line 68 – col. 5, line 1. Thus, the pulp is not washed with an acidic solution. Then, the washed pulp is then combined with an acidified milk product and other

elements to create a food product, which will fail to be a hypo-allergenic product. Loader, col. 4, lines 6-14.

Bishop also fails to cure the deficiencies of Winterson, Lawhon, Radatti, and Todorov discussed above. Bishop discloses an aqueous mixture in which sugar beet pulp residue is “digested in eighteen pounds of water,” which the Examiner characterizes as pulp, that is made alkaline by the addition of a sodium hydroxide solution, then acidified by adding hydrochloric acid, then heated in order to make the pectin soluble. Bishop, col. 2, lines 14-46. Applicants respectfully submit that this process cannot be characterized as a wash process in effect because nothing is removed during this step. In order to acquire the desired pectin from this solution, Bishop then centrifuges, concentrates, and dilutes the solution with alcohol, after which the desired pectin is filtered out of the solution. Bishop, col. 2, line 55 – col. 3, lines 1-33. After this process, the pectin is “washed with fresh alcohol that has been slightly acidified.” Bishop, col. 5, lines 6-8. This washing process, however, will not result in an “acidified, hypo-allergenic pulp,” but instead result in pectin that is free of “entrained impurities” and “residual water.” Bishop, col. 3, lines 38-39.

Claims 19-24, 30, 31, 34, and 35 depend from claim 1 and are allowable at least for the same reasons as claim 1. Accordingly, Applicants request that the rejection of claims 1, 19-24, 30, 31, 34, and 35 be withdrawn.

Application No. 10/589,335
Amendment dated
Reply to Office Action of November 19, 2009

Docket No.: J1036.0021/P021

In view of the above, Applicants believe the pending application is in condition for allowance.

Dated: February 19, 2010

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